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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,384	12/08/2003	Dax Glenn Carter		2597

7590 02/15/2005
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EXAMINER

JUBA JR, JOHN

ART UNIT PAPER NUMBER

2872

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,384

Applicant(s) **C**

CARTER ET AL.

Examiner

John Juba, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9 - 16 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/04/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Information Disclosure Statement***

Applicants' Information Disclosure Statement of August 4, 2004 has been fully considered. The remarks included with the I.D.S. have been taken as a statement of relevance rather than as an amendment to the specification.

Claim Rejections - 35 USC § 112

Claims 9 – 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 13 recite “said mount bracket having a curvature *less than the curvature of the tree*” [emphasis added]. However, trees are known to have diameters and curvatures that vary widely. The examiner knows of no accepted standard for the curvature of trees suitable for use with mounting arrangements of the recited type, and the specification provides no guidance as to what range of tree curvatures is suitable. Thus, claims 9 and 13 relate the curvature of the bracket to the curvature of an object which is so variable that the scope of the claims cannot be determined. See MPEP 2175.05(b). Claims 10 – 12 contain the same indefinite recitation through their dependency from claim 9, and thus are similarly indefinite. Claims 14 - 16 contain the same indefinite recitation through their dependency from claim 13, and thus are similarly indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by La Viola (U.S. Patent number 5,943,175). La Viola discloses a rear view hunting mirror for mounting on a curved support (tree), comprising:

a mirror (28);

a flexible coupling (14) having one end attached to said mirror (Col. 2, lines 24 – 26; Col. 3, lines 26 – 37);

an arcuate mount bracket (12) attached to the opposite end of said flexible coupling from said one end, for seating on the curved support [since the region of contact on the support (tree) is arcuate, the mount bracket becomes arcuate when mounted to the support; Col. 2, lines 12 – 15; Col. 6, lines 25 – 30]]; and

a mount strap engaging said mount bracket for extending around the curved support and securing said mount bracket on the curved support (Col. 5, lines 38-51).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over La Viola, in view of Tolomeo, Sr. (U.S. Patent number 4,487,479). As set forth above for claim 1, La Viola discloses the invention substantially as claimed. However, La Viola does not disclose a buckle mechanism attached to the mount strap and the mount bracket for tightening the mount strap and mount bracket against the curved support.

In the same field of endeavor, Tolomeo, Sr. discloses a rear view hunting mirror for mounting on a curved support (tree), the mirror comprising a mounting frame (11) and strap assembly engaging the frame for extending around the curved support. Tolomeo, Sr. discloses a buckle (B) as a convenient means for adjusting the strap length and securely mounting the assembly to the curved support.

It would have been obvious to one of ordinary skill to provide a buckle mechanism attached to the mount strap and the mount bracket for tightening the mount strap and mount bracket against the curved support in the mirror of La Viola, in the interest of providing a convenient and secure means of adjusting the strap length for cooperation with a curved support, as taught by Tolomeo, Sr. Where it was desirable that the strap be removable, it would have been obvious to further provide an arrangement such as the mounting rings (16) and spring clip brackets (29)(30), such as suggested by Tolomeo, Sr.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over La Viola, in view of Christianson (U.S. Patent number 5,604,633). As set forth above for claim 1, La Viola discloses the invention substantially as claimed. However, La Viola discloses the flexible coupling as comprising a flexible material and so does not disclose the flexible coupling comprising a plurality of coupling digits in articulating relationship, as recited.

In the same field of endeavor, Christianson discloses a rear viewing mirror comprising a mirror, flexible coupling, and clamp for fastening the mirror to a curved support surface. Christianson teaches that multiple ball-and-socket connections (Col. 2, lines 57-60), a coiled gooseneck, a bendable wire, and an articulated arm having a plurality of hinged sections (or digits) are all flexible coupling means suited for flexibly coupling the mirror to the supporting clamp.

It would have been obvious to one of ordinary skill to replace the "flexible material" of La Viola with a plurality of coupling digits in articulating relationship, since Christianson teaches that these are art-recognized equivalent flexible coupling means, and fairly suggests the substitution of plural coupling digits ("sections") for a bendable wire or other flexible coupling. Barring any *unexpectedly* improved result arising from the selection of a particular one, it appears that provision of any of these well-known flexible coupling would have been an obvious expedient in providing adjustability to a rear viewing mirror.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over La Viola, in view of Tolomeo, Sr., and further in view of Christianson. As set forth above for claim 3, La Viola and Tolomeo, Sr. suggest the invention substantially as claimed. However, La Viola and Tolomeo, Sr. do not disclose the flexible coupling comprising a plurality of coupling digits in articulating relationship, as recited.

In the same field of endeavor, Christianson discloses a rear viewing mirror comprising a mirror, flexible coupling, and clamp for fastening the mirror to a curved support surface. Christianson teaches that multiple ball-and-socket connections (Col. 2, lines 57-60), a coiled gooseneck, a bendable wire, and an articulated arm having a plurality of hinged sections (or digits) are all flexible coupling means suited for flexibly coupling the mirror to the supporting clamp.

In a mirror such as that suggested by La Viola and Tolomeo, Sr., it would have been obvious to one of ordinary skill to replace the "flexible material" of La Viola with a plurality of coupling digits in articulating relationship, since Christianson teaches that these are art-recognized equivalent flexible coupling means, and fairly suggests the substitution of plural coupling digits ("sections") for a bendable wire or other flexible coupling. Barring any *unexpectedly* improved result arising from the selection of a particular one, it appears that provision of any of these well-known flexible coupling would have been an obvious expedient in providing adjustability to a rear viewing mirror.

Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Viola, in view of Tolomeo, Sr., and further in view of Varnado (U.S. Patent number 6,588,440). As set forth above for claims 1 and 3, La Viola discloses a rear view hunting mirror for mounting on a curved support (tree), comprising a mirror; a flexible coupling having one end attached to said mirror; an arcuate mount bracket attached to the opposite end of said flexible coupling from said one end, for seating on the curved support; and a mount strap engaging said mount bracket for extending around the curved support and securing said mount bracket on the curved support. As previously argued, Tolomeo, Sr. fairly suggests the use of a buckle in securing the strap around the curved support. Further, until the mounting bracket of La Viola is snugly secured to the curved support, it is believed that it inherently has a curvature less than that of the curved support (tree). Thus, La Viola and Tolomeo, Sr. disclose the invention substantially as claimed. However, they do not disclose a buckle strap and a mount strap connected as recited.

In the same field of endeavor, Varnado discloses an arcuate mount bracket, strap, and buckle arrangement for attaching hunting accessories to a curved support (tree). Varnado teaches that it is well known to use the combination of a mount strap (14) and a buckle strap (13) to secure the mount bracket to the curved support.

It would have been obvious to one of ordinary skill to employ the combination of a mount strap and buckle strap in place of the single buckle strap arrangement of La Viola and Tolomeo, Sr., since this arrangement was a well-known means of attaching an arcuate mount plate to a curved support, and since one of ordinary skill would have

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recognized that the two-strap arrangement presents the rather obvious advantage of reduced strap wear, since the straps are not abraded by sliding through the apertures in the mount bracket during adjustment.

Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Viola, Tolomeo, Sr., and Varnado, and further in view of Christianson. As set forth above for claims 9 and 13, La Viola, Tolomeo, Sr., and Varnado suggest the invention substantially as claimed. However, they do not disclose the flexible coupling comprising a plurality of coupling digits in articulating relationship, as recited.

In the same field of endeavor, Christianson discloses a rear viewing mirror comprising a mirror, flexible coupling, and clamp for fastening the mirror to a curved support surface. Christianson teaches that multiple ball-and-socket connections (Col. 2, lines 57-60), a coiled gooseneck, a bendable wire, and an articulated arm having a plurality of hinged sections (or digits) are all flexible coupling means suited for flexibly coupling the mirror to the supporting clamp.

In a mirror such as that suggested by La Viola, Tolomeo, Sr., and Varnado, it would have been obvious to one of ordinary skill to replace the "flexible material" of La Viola with a plurality of coupling digits in articulating relationship, since Christianson teaches that these are art-recognized equivalent flexible coupling means, and fairly suggests the substitution of plural coupling digits ("sections") for a bendable wire or other flexible coupling. Barring any *unexpectedly* improved result arising from the selection of a particular one, it appears that provision of any of these well-known flexible

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coupling would have been an obvious expedient in providing adjustability to a rear viewing mirror.

Allowable Subject Matter

Claims 5 – 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 11, 12, 15, and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art, taken alone or in combination, fails to teach or fairly suggest the combination, further comprising a camouflage sleeve provided on the flexible coupling for camouflaging the flexible coupling, as recited in claims 5, 11, 12, 15, and 16.

The examiner acknowledges that Rosser (U.S. Patent number 5,400,183; cited in Applicants' I.D.S.) discloses a hunting mirror that may be strapped to a tree, and suggests that the frame may have a camouflaged surface to blend in with its surroundings. However, the examiner believes that this teaching falls short of suggesting a camouflage "sleeve" provided on a flexible coupling. Beyer (U.S. Patent number 4,750,811; cited in Applicants' I.D.S.) discloses a camouflage screen over a hunting mirror. The screen obscures the image in the mirror so as to confuse the prey,

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and thus solves a different problem, than that solved by the Applicants' recited camouflage sleeve.

Responding to this Action

Applicants' intention to prosecute this application without an attorney is noted. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Applicant is advised that the Manual of Patent Examining Procedure (MPEP) is available on-line at www.uspto.gov, via the "Patents" link. Click on "Guidance, tools & manuals", under "Guides . . .". The relevant statute (35 U.S.C. __) and rules (37 CFR__) referred to herein may be found at the same web site under "Law and Rules . . .".

Applicant may wish to review MPEP 714, which describes the nature and requirements of a complete response to an Office action.

Applicant is advised that any amendments to the application papers must be made in compliance with 37 CFR 1.121. This revised amendment practice can be found via the "Patents" web page under "Laws and Rules . . .", at "Revised Amendment Practice". The final rule was also published in Federal Register Vol. 68, no. 125, June 30, 2003 at 38628:

<http://www.uspto.gov/web/offices/com/sol/notices/68fr38611.pdf>

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Applicant is reminded that any papers filed related to this application must be properly identified. See 37 CFR 1.5.

Applicant is advised that the benefit of timely filing is assured through the "Certificate of Mailing" practice described in 37 CFR 1.6.

USPTO employees are not permitted to initiate communications with applicant via Internet e-mail unless there is a written authorization of record in the patent application by the applicant. Please refer to MPEP 502.03 for a sample authorization form. Communications may be directed to the Office at the discretion of the Applicant. However, without written authorization by applicant in place, the USPTO will not respond via Internet e-mail to any Internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122. A reply to this Office action may NOT be communicated by applicant to the USPTO via Internet e-mail.

This Office action sets a 3-month shortened statutory period for response. Extensions of time may be obtained under 37 CFR 1.136(a). In no case may the period for response be extended beyond the six-month statutory period for reply. The fees (e.g., for extensions of time and additional claims) are listed in 37 CFR 1.17(a). However, the manual may not have been updated as to the new fees, which just became effective February 1, 2005. The new fee schedule can be found on the Internet at:

<http://www.uspto.gov/main/howtofees.htm>

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zeidler (U.S. Patent number 1,509,746) discloses a mirror joined with a flexible coupling to a mounting plate, the mounting plate being provided with a strap for securing the mirror to the trunk of the user.

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Graham (U.S. Patent number 1,024,506) discloses a mirror joined with an adjustable (telescoping) coupling to an arcuate mounting bracket, and a strap for securing the bracket to a curved support.

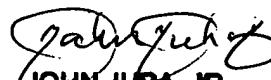
Knapp (U.S. Patent number 369,114) discloses a mirror joined with a flexible coupling to an arcuate mounting bracket and mount strap, the coupling having a plurality of coupling digits.

Painter (U.S. Patent number 717,611) discloses a strap for mounting an adjustable mirror to a curved support.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Juba whose telephone number is (571) 272-2314. The examiner can normally be reached on Mon.-Fri. 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Drew Dunn whose number is (571) 272-2312 and who can be reached on Mon.- Thu., 9 - 5.

The centralized fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for *all* communications.


JOHN JUBA, JR.
PRIMARY EXAMINER
Art Unit 2872

February 9, 2005